

# Notice of Allowability

Application No.

09/838,563

Examiner

Scott E. Jones

Applicant(s)

GATTO ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the reply dated November 9, 2004.
2. ☒ The allowed claim(s) is/are 1-5, 7, 8 and 11-58.
3. ☒ The drawings filed on 02 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 09102004
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

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### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Alan W. Young, Reg. No. 37,970 on December 10, 2004.

The application has been amended as follows:

- On page 16, line 4, delete "XX/XXX,XXX" and insert --29/138,934 now U.S. Design Patent No. D449,346 S --.
- In claim 57, line 1, delete "game" and insert --medium--.
- In claim 58, line 1, delete "game" and insert --medium--.
- Cancel claims 59-75.
- In claim 40, change the claim status identifier from "Previously Submitted" to --Previously presented--.
- In claim 41, change the claim status identifier from "Previously Submitted" to --Previously presented--.
- In claim 48, change the claim status identifier from "Previously Submitted" to --Previously presented--.
- In claim 49, change the claim status identifier from "Amended" to --Previously presented--.

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- In claim 55, change the claim status identifier from "Previously Submitted" to --Previously presented--.
- In claim 56, change the claim status identifier from "Previously Submitted" to --Previously presented--.

2. Claims 1-5, 7-8, and 11-58 are allowed.

3. The following is an examiner's statement of reasons for allowance:

Although Wright (U.S. 3,645,531) discloses a gaming machine that provides a display of a horse race that is divided into four subframes randomly selected from endless film of horse races, wherein bets can be made and winnings paid out in accordance with the outcome of the race and Labis (U.S. 3,729,193) teaches an electronic racing game based on random selection, to electronically control horse races operated at preselected odds closely simulating actual horse racing, neither reference alone or in combination, fairly discloses, teaches, or suggests of randomly selecting an outcome from a number of video sequences that is dependent upon the predetermined odds assigned to each race entrant as similarly recited in independent claims 1, 15, 23, 31, 45, and 52. The instant invention is deemed to be an unobvious improvement over the cited prior art. The improvement comprising a game of chance wherein the outcome of the competitive activity is randomly selected according to predetermined odds from a number of video sequences from which the video sequence of the randomly selected actual outcome is selected being dependant upon the predetermined odds giving the player the excitement of an authentic race such as a player might experience at an Off Track Betting facility, however, the game of chance (race) is wholly independent of the skill or knowledge of the player. This statement is not intended to necessarily state all of the reasons for allowance or all the details

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why the claims are allowed and should not imply that all the reasons for allowance have been set forth.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (571) 272-4438. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott E. Jones  
Examiner  
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